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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 AMANDA M. HAWLEY, et al.,

8 Plaintiffs,

9 v.

10 BUSINESS COMPUTER TRAINING
INSTITUTE, INC., et al.,

11 Defendants.

CASE NO. C08-5055BHS

ORDER DENYING
DEFENDANTS' MOTION FOR
PROTECTIVE ORDER
REGARDING DEPOSITIONS
OF FAYE JONEZ AND LINDA
PIGOTT AND DEFENDANTS'
MOTION TO STRIKE

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13 This matter comes before the Court on Defendants' Motion for Protective Order
14 Regarding Depositions of Faye Jonez and Linda Pigott (Dkt. 64) and Defendants' Motion
15 to Strike (Dkt. 85). The Court has considered the pleadings filed in support of and in
16 opposition to the motions and the remainder of the file and hereby denies Defendants'
17 motions for the reasons stated herein.

18 **I. FACTUAL AND PROCEDURAL BACKGROUND**

19 This matter was removed to federal court on January 30, 2008. Dkt. 1. Plaintiffs
20 bring this suit on behalf of former Oregon students of the Business Computer Training
21 Institute, Inc. ("BCTI"), alleging that BCTI made material misrepresentations that its
22 training programs would train students to become business professionals and prepare
23 them for high-paying jobs in high-tech computer careers; for officer administration
24 positions using computers; or for positions as web designers, network administrators,
25 hardware repair technicians and software help-desk specialists with the intent of inducing
26 Plaintiffs to enroll in the programs. Dkt. 1 at 10. Plaintiffs contend that BCTI conferred
27 certificates on students regardless of their academic performance and enrolled students in
28

1 order to acquire governmental funding. *Id.* at 11-12. According to Plaintiffs, BCTI did
2 not fulfill its representations with regard to career counseling, reasonable job placement
3 assistance, or referrals from BCTI. *Id.* at 13.

4 In Plaintiffs' Amended Complaint, they allege the following claims: (1) breach of
5 contract and warranty, (2) violation of Washington's Consumer Protection Act, RCW
6 19.86.020, (3) negligent infliction of emotional distress, (4) negligence and lack of
7 institutional control, (5) misrepresentation, (6) breach of fiduciary duty, and (7) fraud.
8 Dkt. 40.

9 On June 24, 2008, the Court issued a scheduling order requiring that all discovery
10 must be completed by June 8, 2009. Dkt. 46.

11 On October 3, 2008, Defendants filed a Motion for Protective Order Regarding
12 Depositions of Faye Jonez and Linda Pigott. Dkt. 64. On October 8, 2008, Plaintiffs
13 responded. Dkt. 74. On October 14, 2008, Defendants replied. Dkt. 85.

14 II. DISCUSSION

15 A. Motion to Strike

16 Defendants move to strike "Exhibit A of James W. Beck's Declaration for failing
17 to comply with the rules of evidence." Dkt. 85 at 1. Defendants contend that "Plaintiffs
18 continue the improper habit of attaching documents with no indication that the declarant
19 has personal knowledge of either the document's origins or the veracity of the
20 document's content." *Id.* at 2. Defendants, however, continue to cite case law regarding
21 the evidentiary standards for evidence attached to motions for summary judgment instead
22 of focusing on the standards for *discovery* motions. *See id.* at 2; *see also* Dkt. 112 at 3. A
23 party may obtain material through discovery that is not admissible at trial but does show
24 either that more discovery is warranted or that a protective order is appropriate.
25 Defendants' argument that all material submitted to the Court should comply with the
26 rules of evidence is without merit. Questions regarding the content of the declaration and
27 the declarant's personal knowledge go to the weight of the material that a party submits to
28 the Court. Therefore, Defendants' motion to strike is denied.

1 **B. Motion for a Protective Order**

2 Defendants concede that Faye Jonez and Linda Pigott may be deposed by Plaintiffs
3 but seek a protective order to delay those depositions until Plaintiffs have deposed other
4 corporate officers. Dkt. 85 at 1. Defendants cite no binding authority for the proposition
5 that the Court should interfere with or set the scheduling of the depositions for named
6 parties. Moreover, Defendants have failed to show a compelling reason for the Court to
7 exercise its discretion in interfering with this aspect of discovery. Defendants assert that
8 Plaintiffs are using “improper motives of harassment and intimidation for purposes of
9 settlement tactics.” Dkt. 85 at 3. Contrary to Defendants’ assertions, Plaintiffs claim
10 that:

11 Faye Jonez and Linda Pigott are named adverse parties, they are both listed
12 as witnesses on Defendants’ initial disclosures, they were both on the Board
13 of Directors for each of the defendant corporate entities, and are among a
14 very narrow group of individuals with information about how these
businesses ran on an executive level. Defendants’ unfounded claim that the
purpose of these depositions is to harass, is without support and simply
incorrect.

15 Dkt. 74 at 1. The Court agrees; Defendants’ accusations of harassment are not only
16 hypothetical but also highly questionable considering the fact that Defendants have listed
17 these individuals as witnesses.


18 Therefore, Defendants’ motion for a protective order is denied.

19 **III. ORDER**

20 It is hereby

21 **ORDERED** that Defendants’ Motion for Protective Order Regarding Depositions
22 of Faye Jonez and Linda Pigott (Dkt. 64) is **DENIED** and Defendants’ Motion to Strike
23 (Dkt. 85) is **DENIED**.

24 DATED this 6th day of November, 2008.

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26 
27 BENJAMIN H. SETTLE
28 United States District Judge